



Active Enactment and Virtuous Circles of Employment Relations

How Danish Unions Organised the Transnationalised Copenhagen Metro Construction Project

Arnholtz, Jens; Refslund, Bjarke

Published in:
Work, Employment and Society

DOI:
[10.1177/0950017019832514](https://doi.org/10.1177/0950017019832514)

Publication date:
2019

Document version
Peer reviewed version

Citation for published version (APA):
Arnholtz, J., & Refslund, B. (2019). Active Enactment and Virtuous Circles of Employment Relations: How Danish Unions Organised the Transnationalised Copenhagen Metro Construction Project. *Work, Employment and Society*, 33(4), 682-699. <https://doi.org/10.1177/0950017019832514>

Active enactment and virtuous circles of employment relations: How Danish unions organised the transnationalised Copenhagen Metro construction project

*****Accepted for publication in Work, Employment and Society *****

Jens Arnholtz

University of Copenhagen, Denmark

Bjarke Refslund

Aalborg University, Denmark

Abstract

Transnational workers on large-scale construction projects are often poorly included in national industrial relations systems, which results in employment relations becoming trapped in vicious circles of weak enforcement and precarious work. This article shows how Danish unions have, nonetheless, been successful in enacting existing institutions and organising the construction of the Copenhagen Metro City Ring, despite initially encountering a highly fragmented, transnational workforce and several subcontracting firms that actively sought to circumvent Danish labour-market regulation. This is explained by the union changing their organising and enforcement strategies, thereby utilising various power resources to create inclusive strategies towards transnational workers. This includes efforts to create shared objectives and identity across divergent groups of workers and actively seeking changes in the public owners' attitude towards employment relations.

Keywords: unions, construction work, enforcement, European integration, institutional enactment, organising, transnational labour, power resources.

Corresponding author:

Jens Arnholtz, University of Copenhagen Oester Farimagsgade 5, Building 16, P.O. Box 2099
DK-1014 Copenhagen K, Denmark
E-mail: jh@faos.dk

Introduction

Employer-driven labour migration creates some of the most precarious work within the European Union because employers use unorganised and highly mobile migrant workers as a source of cheap labour. Consequently, the economic freedoms that were supposed to promote prosperity across the EU are increasingly associated with precariousness and social dumping. As cross-border labour mobility increases, nationally rooted unions struggle to find new strategies to organise transnationally mobile workers and regulate their employment conditions (Meardi, 2012). Two big questions arising are why employer-driven labour migration creates precariousness within otherwise well-regulated labour markets and what unions can do about it.

Previous research has answered the first question by pointing towards the importance of institutional enactment. While most receiving countries have formally inclusive institutions governing the employment conditions of transnational workers, these institutions are often circumvented or re-interpreted by employers (Berntsen and Lillie, 2016). Additionally, it is hard to establish solidarity among domestic and transnational workers due to the short-term nature of the transnational workers' stay, language barriers, cultural differences, economic disincentives (Caro et al., 2015), and lack of common identity and objectives (Kall et al., 2018; Refslund and Sippola, forthcoming). Instead, the transnational workers are often heavily dependent on their employer and, therefore, often support the effort to circumvent institutions (Berntsen, 2016; Lillie, 2016). Without the support of the transnational workers, unions have a very limited ability to maintain the usual functioning of domestic labour-market institutions. Thus, the combination of employer approaches, the lack of common identity across groups of workers, and inadequate union strategies seem to explain the lack of enactment of the formal inclusiveness of institutions in practice.

However, little research has singled out what unions can do to counteract these problems. In fact, previous studies of union efforts to organise the transnational workers and re-regulate their employment

conditions present a rather bleak picture (Lillie and Sippola, 2011). Even if unions do sometimes succeed in preventing employers' circumventions, the victories are often short-lived (Berntsen and Lillie, 2016). So, the question remains how unions can transform the Sisyphean task of constant and difficult enforcement into a more self-sustaining situation in which workers and employers contribute to an inclusive enactment of institutions and the prevention of precariousness in a 'virtuous' circle (Doellgast et al., 2018).

This article presents a case study of how Danish unions succeeded in creating a more self-sustaining enforcement situation around transnational workers on the construction of the Copenhagen Metro City Ring (CMCR). Starting as a disorganised and union-hostile construction project, the CMCR experienced a dramatic shift to become a relatively well-organised construction project with a 30 per cent union density, shop stewards on every worksite, improved enforcement of collective agreements, and more cooperative employers. The article identifies how trade unions initiated this shift and, more specifically, how they mobilised different power resources by developing new strategies. Analysing the processes, the article argues that a combination of 1) continuous organising efforts, 2) politicisation of the public owners' responsibility for employment relations, and 3) more selective enforcement were all instrumental for causing the shift towards a more inclusive enactment of institutions. While traditional union organising and enforcement strategies are challenged when transnational workers are involved (Kall et al., 2018; Heery, 2009), the case study shows that unions' efforts to organise transnational workers can succeed when it is part of a broader strategic effort to improve the transnational workers' employment relations. The analysis further highlights how unions need internal debates and learning processes to find effective ways of mobilising resources when facing new challenges and securing a better alignment between organising strategies and the needs of contingent workers such as transnational migrants (Simms and Holgate, 2010).

Enactment, power, and strategies in a transnationalised construction sector

Previous research shows that changes in employment relations are often caused by changes in the enactment rather than by formal institutional change (Jaehrling and Méhaut, 2013; Baccaro and Howell,

2017). However, while much focus has been on how institutional enactment deteriorates to become less inclusive and promote precariousness, few studies have looked at how actors can rebuild and sustain an inclusive institutional enactment for groups like transnational workers (Doellgast et al., 2018). This is an important issue for understanding what unions should do to face contemporary challenges. In the following section, a theoretical framework for understanding this issue is outlined.

First, Doellgast et al. (2018) argue that the degree to which the enactment of specific institutions prevents or promotes precarious work is dependent upon the interaction between 1) the formal inclusiveness of institutions, 2) employers' orientation, 3) worker solidarity, and 4) union strategies. More importantly, they argue that the interaction between these four factors can become a self-reinforcing feedback loop that produces either a 'vicious' or a 'virtuous' circle. In the 'vicious' circles, fragmentation of institutions, exit-oriented employer strategies, lacking worker solidarity, and exclusive union strategies focusing on an often-shrinking core constituency will reinforce each other and promote precarious work. By contrast, inclusive institutions, partnership-oriented employers, worker solidarity, and union strategies aiming for the inclusion of divergent groups of workers will augment each other and prevent precarious work in a 'virtuous' circle. In either case, the feedback loop promotes the reproduction of a certain institutional enactment. Scholars should therefore focus on the interaction between different factors to understand how institutional enactments are reproduced. Nonetheless, stressing the interaction between factors does not tell us what unions can do to promote a shift from a vicious to a virtuous circle.

Second, unions are resourceful actors that can utilise their power resources to contribute to inclusive strategies towards contingent workers. When trying to promote a virtuous enactment of institutions, most Western European unions can still draw on the institutional power (Webster, 2015) granted to them by formally inclusive institutions such as collective bargaining, chain liability, extension mechanisms, and labour clauses in public procurement (Berntsen and Lillie, 2016; Bosch and Weinkopf, 2013; Jaehrling et al., 2018). Additionally, they can mobilise various forms of structural power, gained by workers' position in the economy and their capacity to disrupt production processes, and associational power, originating from

workers' collective organisation and representation (in the labour market, inside companies, and in the political sphere) (Wright, 2000; Silver, 2003). Additionally, unions may also use symbolic power, understood as leverage gained through symbolic action such as mass protests or morally laden discourses (Chun, 2009).

Third, however, having such resources is not the same as using them successfully (Lévesque and Murray, 2010). Especially when resources need to be mobilised towards new challenges, unions need to make strategic choices and develop new strategies (Heery, 2009; Kall et al., 2018; Eldring et al., 2012). For instance, unions must learn to supplement formally inclusive union policies (as those described by Heery and Abbott, 2000) with inclusive practices that address workers' real needs when dealing with new groups of contingent workers. They must also develop industrial action strategies that are based on and contributes to the formation of common identities and objectives across different groups of workers (Greer and Hauptmeier, 2012; Hyman, 1999; Kall et al., 2018).

To study how unions mobilise their power and develop strategies for promoting virtuous change, this article focuses on one of the most precarious groups of workers in contemporary Europe, namely migrant workers. More specifically, it focuses on so-called *transnational workers* understood as labour migrants who are employed or recruited in one country to work temporarily in another. Some are posted workers while others are recruited by intermediaries to work for foreign subsidiaries in another country. Either way, the distinctive feature of transnational workers is that both they and their employer are 'foreign' to the national institutional context they work in, which increases the likelihood that they will enact institutions differently (Lillie and Greer, 2007; Wagner and Lillie, 2014). Given that the use of transnational workers is often associated with a business strategy that relies on cheap and flexible labour, employers will typically opt for an exit-oriented strategy involving various forms of regulatory evasion (Berntsen and Lillie, 2016). Due to the short-term nature of their stay, their 'dual frame of reference' (Waldinger and Lichter, 2003), and their heavy dependence on their employer (Caro et al., 2015), these workers typically accept wages and working conditions that are substandard compared to the country of work.

Arguably, construction is the sector in which the presence of transnational workers has had the strongest impact on institutional enactment. While the construction sector has traditionally been relatively well-regulated in most Western European countries, staffing agencies and long, complex subcontracting chains have promoted the use of transnational workers (Caro et al., 2015; Wagner and Lillie, 2014). Despite the enduring presence of inclusive institutions, the enactment of these institutions is often eroded because they are underpinned by neither employer strategies nor worker solidarity. This may be why previous research shows that even strong unions have been unsuccessful in stopping the vicious enactment of employment relations institutions on large transnational construction sites. In a hallmark case study, Lillie and Sippola (2011) find that the otherwise powerful Finnish construction unions were unable to organise the construction of a nuclear power plant due to the ineffectiveness of their traditional enforcement tactics and their inability to organise and represent the transnational workforce. Similar findings emerge in more recent studies of the construction of the European Central Bank in Frankfurt (Wagner and Lillie, 2014) and the Eemshaven construction sites in the Netherlands (Berntsen and Lillie, 2016). While the Eemshaven study showed some progress in union efforts to safeguard the working standards of transnational workers, the authors point out that this progress concerned only a limited group of workers for a limited period. In other words, unions never succeeded in establishing the self-reinforcing ‘virtuous’ circles described by Doellgast et al. (2018). Therefore, despite investing substantial resources into the organisation of transnational workers and their employment conditions, it seems that unions still have not found the right strategies for solving the challenges identified by the literature. This article contributes to this literature by presenting a case study, which shows how a Danish construction union facilitated this shift on the Copenhagen Metro City Ring project. In line with the outlined theoretical framework, the analysis emphasises the process of transformation in which the union learned to use its power to create a more self-reinforcing ‘virtuous’ circle.

The Copenhagen Metro City Ring project and its Danish context

The Copenhagen Metro City Ring (CMCR) is a 2.9-billion-euro construction project begun in 2009 and scheduled to finish in 2019. The Metro Company - the developer and owner of CMCR - is co-owned by Copenhagen municipality, Frederiksberg municipality and the Danish state. The main contractor on the CMCR is the Copenhagen Metro Team (CMT), a consortium of Italian construction companies. CMT mainly designs, plans, and controls the production, while it hires various subcontractors for the actual construction tasks. More than 250 subcontractors from 24 countries have been involved in the project. Italians, Poles, Rumanians and Portuguese make up the majority of the workers. Since the project consists of underground tunnelling and the construction of 17 metro stations, workers are scattered over multiple locations. Organising this highly fragmented and transnationalised construction project has proven to be a great challenge for the local construction workers union (called BJMF). To fully understand these challenges, some information about the Danish labour market is needed.

In Denmark, collective agreements essentially regulates wages and working conditions (Andersen et al., 2014). There is no statutory minimum wage or legal extension of collective agreements, entailing that a company without a collective agreement can remunerate at any level employees are willing to accept. Nonetheless, the labour market remains highly regulated due to a well-organised workforce, strong unions, and multi-employer bargaining. Union density is around 67 per cent, and collective bargaining coverage is around 84 per cent, with the figures being 65 and 75 per cent respectively for the construction sector (Arnholtz and Andersen, 2016). Additionally, unions have far-reaching prerogatives to achieve collective agreements with companies, including secondary industrial action (Eldring et al., 2012), and they can impose and enforce collective agreements without having a single member in a given company. At the same time, however, a collective agreement binds unions to industrial peace, implying that they convert their structural power into institutional power.

However, the increasing influx of transnational workers has challenged this situation. These mobile workers typically have lower wage expectations, seldom use the labour market to improve their conditions, and are typically not unionised. Most transnational workers are employed at standards below those set by

the collective agreements because unions have a hard time imposing and enforcing collective agreements on companies that mainly employ such transnational workers (Arnholtz and Andersen, 2016). Not only do these companies lack experience with unions, thereby making them more reluctant to sign collective agreements, but the temporary nature of their stay in Denmark also makes union pressure less effective. Therefore, to prevent precarious work, Danish construction unions have lobbied public authorities to put so-called labour clauses into their procurement tenders. These clauses require all contractors to follow the terms set by collective agreements. Increasingly, public construction work in Denmark is subject to such labour clauses (Jaehrling et al., 2018). This is also the case for the CMCR. The clauses provide the unions with a stronger starting point since they do not have to spend time and resources converting their structural power into institutional power by securing a collective agreement in the first place. Instead, they can focus on enforcing collective agreements and organising workers.

While such formal inclusive institutions have helped, their enactment still matters. Enforcing and organising the CMCR was an enormous challenge for BJMF, which is a small local section of the United Federation of Danish Workers (3F). BJMF has a great deal of autonomy vis-a-vis 3F and even has its own special collective agreement regarding concrete construction work. Since most of the construction on the CMCR project is reinforced-concrete work such as casting the tunnels, stations and shafts, BJMF had a key role in organising and negotiating the conditions. Additionally, union organisers working on the CMCR were typically hired by BJMF with some financial support from the union federation. While BJMF is a strong and well-organised local section, it normally relies heavily on its many militant members to ensure the enforcement of collective agreements in the greater Copenhagen area. However, this strategy does not work well with non-unionised transnational workers, and BJMF has had to adopt new strategies for the highly transnationalised CMCR project.

Data and methods

In line with the theoretical emphasis on how unions' learn to mobilise resources and power to handle new challenges, the case study analysis is processual. The article draws on several data sources to reconstruct the transformation process, and the different data sources were triangulated to ensure the validity of the findings.

First, a systematic search and review of news articles on labour-related events on the CMCR (2011-2016) was used to reconstruct the main features of the process. Since the initial search yielded more than 60,000 articles, most without relation to labour issues, the focus was narrowed to three outlets that mainly focused on the labour aspects of the CMCR project. *Fagbladet*, a union journal providing detailed, but obviously union-biased, coverage of labour-related issues; *Licitation*, a construction-sector-focused newspaper also providing detailed information on CMCR events, but with less emphasis on union action; and *Politiken*, one of the three largest national Danish newspapers provided information on national media coverage of the CMCR. The updated search provided 1,031 articles, all of which were read and summarised if they had relevance for labour relations. Then different events were ordered chronologically and categorised into broader categories such as 'organising', 'enforcement', 'companies', and so forth, which facilitated the analyses of these processes (for a condensed overview, see appendix 1).

Second, we conducted semi-structured face-to-face interviews with union officials, union organisers, employer association representatives, labour inspectors, representatives from the Metro Company, and management in different companies on the CMCR. In total, 18 interviews with 22 interviewees were conducted which is almost a complete sample of the key institutional actors involved in the transformation process under study (Appendix 2 supplies a list of the interviews). The interviews aimed to 1) test and verify our understanding of the processes, 2) supplement our overview with events that flew under the media radar (like most everyday organising), and 3) improve our understanding of individual events, how the events were linked, and how the actors perceived them. Interviews were transcribed and thematically coded using qualitative data analysis software (Nvivo).

Finally, 3F had an evaluation report made on the CMCR-organising effort (Mathiassen, 2016), which contained otherwise inaccessible data on unionisation rates and provided valuable information on the union's engagement with transnational workers and foreign firms on the CMCR. It also included 35 interviews with and a large survey among the transnational CMCR workers, thus compensating somewhat for a lack of attention to the workers' perspective in the original research design. While commissioned by the union, the report had a critical perspective on the unions' effort, and we further interviewed the author about the findings. News media coverage, the union's evaluation, and the interview data were then triangulated to test for consistency and to inform the overall analysis. The analysis below hence draws on this mixture of data to reconstruct and identify the most important factors in the transformation process.

While this analytical approach has provided deep insights into the transformation process, there are some important limitations to our data. First, while several companies were interviewed and verified the improved working relations, companies terminated from the CMCR did not want to be interviewed. Therefore, our account of the actions of these companies is based on media coverage and interviewees from unions, the main contractor, and the developer. Second, because the original research design emphasised union strategies for institutional enactment, no interviews were conducted with transnational workers (except for one Italian worker who became a union organiser). As the analysis progressed, it became apparent that disregarding the centrality of the transnational workers' perception of the process was problematic. Conducting interviews with transnational workers – particularly the elected shop stewards – would have allowed us to get a deeper understanding of the on-the-ground organising and mobilising process. However, almost none of the transnational workers who had been involved in the transformation process since the start-up phase of the project were still working on the CMCR at the time of the final interviews in 2017. Either their companies had finished on the project, or there had been workforce rotation within the company. Limited research resources restricted the possibilities of contacting these workers in their home country. Although the union evaluation (Mathiassen, 2016) did provide valuable insights on workers' perceptions, this important omission implies that this study can mainly inform

us about trade union strategies and not about transnational workers' tactics or perceptions of trade union actions (for an excellent analysis of transnational workers' on-the-ground tactics, see Berntsen 2016). Still, trade union interviewees—consisting of both BJMF leadership and on-the-ground organisers – are in a good position for observing the aggregate effect of the changes to the CMCR's organisation. The fact that they openly recognised the shortcomings of their strategies especially granted validity to the interview data.

A 'vicious' circle of disorganisation and disruption

While the CMCR became relatively well-organised, it started out as a union-hostile project. When the main contractor, CMT, arrived in Copenhagen in 2011, it barred BJMF from the CMCR construction sites. While Danish unions do not have a de jure access to construction sites, they normally have a de facto access, and rejection of access to construction sites is seen as hostility towards unions. Furthermore, transnational workers told union organisers that talking to union representatives could get them fired from the CMCR. As one transnational worker explained *'...everyone knew, that if [the company] knew I was in 3F, I would get fired.'* (Portuguese worker, quoted in Mathiassen, 2016:42). Additionally, CMT hired several foreign subcontractors known for previous violations of collective agreements and workers' rights. In sum, while social clauses bound all CMCR companies by collective agreements, CMT's approach indicated hostility towards unions and an exit-oriented strategy vis-à-vis Danish institutions.

Bound by industrial peace, barred from the construction sites, and without members among the transnational workers, BJMF was unable to use the institutional power granted by the collective agreement because the union could not document any violations. Instead, BJMF used more symbolic forms of power such as media attention to gain leverage, and the bad publicity forced CMT to dismiss companies suspected of violations from the project. Still, the CMCR was caught in a vicious circle of disorganisation and disruption. Many companies circumvented the collective agreements because they did not fear sanctions. When fraud was exposed, the companies were dismissed, which caused disruptions in the construction

schedule. Meanwhile, unions had a hard time using this as leverage for improving the general conditions since the transnational workers were either fired or transferred to other companies rather than being compensated for the violations. Due to the lack of a common objective, there was a persisting disincentive for transnational workers to come forward and bear witness against employers, and the unions did not get many new members despite their continuous organising efforts. Therefore, despite having institutional and associational power at their disposal, BJMF was unable to use them successfully, and labour relations on CMCR were caught in a vicious circle from 2011 to early 2015.

Explaining the shift

During 2015, however, a significant shift occurred, and the following section analyses the three key changes that the unions enacted to create this shift. These are 1) long-term union organising efforts, which gradually became more strategic and inclusive as the result of a learning process; 2) mobilisation of political attention regarding the CMCR, causing an increasing engagement of the Metro Company in collective labour rights enforcement; and 3) a shift in the unions' enforcement strategy from targeting all violations to building one strong case to display their power for workers and companies alike. In the following, these three processes of change are analysed individually, and then it is outlined how the interaction between them caused a major shift.

From organising for enforcement to organising for workers and enforcement

Having a strong membership base is vital for unions' associational power, but also their structural power. BJMF knew that organising the transnational workers would be challenging and, therefore, started an organising effort early on. A CMCR-specific organiser was hired in 2009 (before CMT had even arrived) and another was hired, as the project got under way. However, three challenges obstructed the organising efforts. First, because Danish unions have wide-ranging possibilities for enforcing their collective agreements, some local union sections are more concerned with enforcement than organising when it

comes to transnational workers (Eldring et al., 2012). While the two newly hired organisers tried to break away from this enforcement-oriented and somewhat exclusionary strategy, the dilemma between enforcement and more inclusive organising strategies constantly lingered in the background and could potentially hamper the possibilities for generating a common objective with the transnational workers. Second, the organising efforts were rather unfocused, as one organiser explained:

‘We were fighting blindfolded, going this way and that, poking in every direction. (...) We basically tried to organise the whole CMCR at once, but didn’t have a clear strategy on whether to organise or enforce (...). We just took the opportunities that arose’ (Interviewee 5, union organiser)

Third, while the union translated leaflets about the Danish labour market, the organising officers did not speak the major languages of the workforce (Italian, Polish, Romanian, and Portuguese). This severely limited their capacity to communicate with the migrant workers, to inform them about their rights, acquire knowledge about their concerns and hear about potential breaches of the collective agreements. Consequently, while BJMF drew on its associational power and invested resources in organising, the unfocused and rather enforcement-oriented approach yielded few real improvements. The fact that BJMF had only two foreign members out of approximately 230 workers in early 2013 illustrates this well (Mathiassen, 2016).

However, in 2014, the organising strategy started to change when the two organisers participated in a course about a UK-inspired ‘organising model’ (Arnholtz et al., 2014). This gave them an opportunity to reflect on previous errors and made them rethink their strategy. First, BJMF concentrated their tactic targeting one firm at a time and starting with a highly specialised company where resistance toward unionism was likely to be less pronounced. The idea was to increase union legitimacy on the CMCR and then allow unionisation to spread gradually to other companies. Second, organising efforts became more inclusive. Besides hiring organisers with the same cultural backgrounds as the transnational workers and

thereby addressing the importance of cultural and linguistic differences, BJMF also started addressing the transnational workers' concerns about matters unrelated to collective agreements and industrial relations.

As explained by one worker, labour rights were only one of the transnational workers' concerns:

'We were completely unfamiliar with the Danish system. How to find an apartment? What is the price? ... We did not have time to find information on our rights.' (Romanian worker, quoted in Mathiassen, 2016:58).

To establish a common objectives with these workers, BJMF had to widen their focus:

'Taxation, health insurance, residents permit (...). We started helping them with things Danes would take care of this themselves. It was an unusually high level of service we provided and it was very costly in time and resources, but it was really important for turning things around' (Interviewee 5, union organiser)

Third, BJMF launched introductory courses about the Danish labour market for CMCR workers. These courses promoted organising in two important ways. First, the courses made some of the transnational workers 'fall in love with the Danish model' (Interviewee 10, union organiser) because they understood how it gave them influence. Second, workers from different nationalities and companies started talking about common problems during the course and, thus, started creating a common identity as metro workers. Since only a limited number of workers could participate, the union targeted 'first-movers' and in-group leaders who often went back to their colleagues with a stronger sense of their rights and how to defend them.

'The first part of the courses was very basic and practical: How does the Danish system work, how to register your address so you can pay tax and go to the doctor, all of this. The second part was a bit more on collective agreements and local negotiations, tactics and such. And we have seen that after these courses, some of the companies have been pulled to the negotiation table and have had to increase the wages. That is very satisfying for us.' (Interviewee 5, union organiser).

The more inclusive strategy led to gradual improvements in the unionisation, as BJMF organised 200 out of the 1.200 transnational CMCR workers by the end of 2014 (Mathiassen, 2016).

Politicising owner engagement with employment relations

The second important factor in facilitating the shift was the growing involvement of the publicly-owned Metro Company in employment relations issues. Scholars have shown the importance of public procurement in the regulation of employment relations (Jaehrling et al., 2018a), and the CMCR case illustrates how public owners can promote a move towards a virtuous circle by influencing employers' orientation as described by Doellgast et al. (2018). Nevertheless, it also shows that union action can be vital for mobilising the public clients' involvement.

As the CMCR tenders required all contractors and subcontractors to abide by collective agreements, the Metro Company expected this to secure decent conditions and hoped to resolve problems via informal dialogue (Interviewee 3, Metro Company Director). However, the initial lack of trust between CMT and BJMF meant the informal dialogue never got under way. Instead, BJMF used media attention to put pressure on the Metro Company. From 2011 to 2013, BJMF organisers frequently appeared in national media reports about health and safety violations or the lack of apprentices on CMCR. As such, the project was already publicly politicised when *Fagbladet* started reporting about collective agreement violations in June 2012 (Fagbladet, 12-06-2012). In the subsequent news coverage, BJMF succeeded in portraying CMCR companies as crooks, the Metro Company as too passive, and themselves as the sole defenders of workers rights. As more stories emerged and spread to national media, political pressure on the Metro Company increased. From initially targeting the individual firms, BJMF representatives started increasingly to condemn the Metro Company for not securing decent working conditions on this tax-financed project. Both the mayor of Copenhagen and the minister of transport got involved, and the Metro Company had to react. From initially having defended CMCR companies against BJMF's accusations, the Metro Company's reaction was to force CMT to terminate the companies in question but without taking any general action to improve employment relations. However, BJMF continued to promote media attention on new issues, and during the summer of 2014, the Social Democratic mayor of Copenhagen came under significant pressure from his

constituency regarding the problems at CMCR. Subsequently, a clear message was sent to the Metro Company that things needed to change, and from mid-2014, the Metro Company became much more active regarding employment relations.

First, it forced CMT to replace its managing director and HR manager, both of whom had been in constant conflict with BJMF. The new director had a more positive approach to the unions, and the new HR manager was a former Danish unionist who regarded unions as partners rather than adversaries. Second, the Metro Company initiated an investigation of wages and employment conditions on the CMCR, which revealed collective agreement violations in almost every investigated company and a total lack of knowledge about labour rights among workers. In response, the Metro Company started distributing pamphlets about workers' rights in most of the relevant languages. Third, the Metro Company hired a new vice-director with focus on employment relations. She immediately started informal talks with BJMF to re-establish trust. Unions were not only granted access to construction sites; the Metro Company provided them with on-site offices and information boards to show the transnational workers that unions were legitimate actors on the CMCR. Furthermore, the new director increased the Metro Company's effort to enforce collective agreements on the CMCR, thereby forcing more companies to adopt a less exit-oriented strategy.

In sum, the involvement of the Metro Company changed from being a rather passive bystander to becoming actively engaged in promoting and enforcing worker rights during 2014. Some observers have argued that the need for the Metro Company's assistance illustrates the diminishing associational and structural power of Danish unions, who would normally both impose and enforce collective agreements without the assistance of public authorities or developers. While this is to some extent true, it was the unions' successful use of symbolic power, which forced the Metro Company to become a more socially responsible customer.

Strategic enforcement in the Cipa case

The final important factor in explaining the major shift is a change in the union's enforcement strategy. With all CMCR companies covered by collective agreements, BJMF had obtained significant institutional power. However, the effective use of this power was dependent on the enforcement of collective agreements. Initially, BJMF aimed at addressing every collective agreement violation they detected on the CMCR. However, with unions barred from the construction sites, having virtually no members on the project, and facing transnational workers with a low incentive to engage with them, systematic enforcement on this huge and fragmented construction project was practically impossible. As with the organising efforts, the effort went in all directions without much result.

In late 2013, a newly elected BJMF leadership introduced a new and more strategic approach to enforcement on the CMCR. Rather than trying to address every violation, they targeted only a few major companies. This was not an easy decision because many union members and officials saw it as abandoning an important principle.

'Before the EU-enlargement we had the understanding that we controlled this sector, but then the boat started leaking (...). Realising that we didn't have the resources to control everything was very painful and gave a feeling of powerlessness ... it had been part of our self-perception that we could control everything. But we had to change strategy. So now we aim for making a difference where we can. Previously we had way too many cases and none of them got solved properly ... We did not get any money, any new members or anything'
(Interviewee 11, union management BJMF)

Based on this new approach, a solid legal case was built against Italian company Cipa during 2014. BJMF build the case on testimonies from workers of different nationalities, but Cipa tried to hinder the proceeding by firing workers who came forward and by telling other workers that they had bought off BJMF. Nonetheless, the trust built up by previous organising efforts was starting to pay off, and the new enforcement strategy proved successful when Italian, Romanian, and Polish workers gave witness on behalf of BJMF. The Labour Court verdict of March 2015 fined Cipa approximately €3 million for violating the collective agreement—the largest fine in the history of the Danish Labour Court. In other words, the

associational power mobilised by BJMF's organising efforts proved vital for the effective use of institutionalised power gained from collective agreements.

Linking organising, politicisation, and enforcement

While each of these three processes of change was important, the way the union managed to connect them was the real cause of the shift in the organisation of the CMCR. The Cipa ruling became an important turning point because BJMF used it to tie organising efforts, symbolic pressure on the Metro Company, and their enforcement strategy together. First, BJMF demanded from CMT and the Metro Company that Cipa should 'stay and pay' the fine (Interviewee 11, union management BJMF). In previous cases, the offending companies had declared bankruptcy or left Denmark when fined, which made it practically impossible for the union to collect the money. Linking the ruling to the Metro Company's increasing interest in avoiding bad publicity, BJMF argued that if the Metro Company and CMT wanted to re-establish trustful relations, making Cipa pay would be paramount. If not, BJMF would have the right to blockade the construction sites due to unpaid wages, and they threatened to use this structural power at a very time-sensitive phase in the construction process when concrete was to be delivered. Seeking to avoid the blockade and to re-establish good working relations with BJMF, both the Metro Company and CMT entered intense negotiations with Cipa and forced the company to stay and pay. For the first time, BJMF got a significant sum of money for collective agreement violations, and they established a working relationship with the new management of CMT in the process (Interviewee 11, union management BJMF; Interviewee 13, CMT Chief Operating Officer).

Second, BJMF distributed the money among the transnational workers. BJMF-members at Cipa were automatically entitled to their part of the payment, but since the union – and not the workers - is the legal partner in the collective agreements in the Danish IR-system, BJMF could have kept the fines concerning unorganised Cipa workers. However, after long internal debates, BJMF decided to distribute the money to the unorganised Cipa workers, if they would join the union.

‘We had a long debate in BJMF about what to do. We had spent a lot of resources and could really use the money, and it was also against fundamental principles paying them when they join [only] afterwards. But we argued that perhaps it would be better to open up and show the workers that we are not the mafia their employers said we are, but that we are as we say we are. Luckily, we convinced the BJMF board that this was what we should do’ (Interviewee 6, BJMF organiser)

Since the decision to distribute the fine to non-members meant that joining the union implied a cash payment, BJMF unsurprisingly saw a significant increase in membership among Cipa workers (from 26 members at the start of 2015 to 147 by the end of 2015). Meanwhile, overall union density on CMCR also rose during this period from 16 per cent to 31 per cent (Mathiassen, 2016). This indicates that the organising efforts, the Cipa ruling, and the distribution of the Cipa money had shown an increasing number of the transnational workers that the Danish unions share the same objectives and, hence, were worth joining.

Third, the Cipa case showed other companies that BJMF had the associational and structural power (supported by the Metro Company) to enforce their institutional power and, therefore, should be taken seriously—both as an adversary and as a partner. In the month following the Cipa verdict, two other companies agreed to settlements for violations of the collective agreements. Furthermore, this initiated negotiations between BJMF and CMT regarding a new local agreement that would grant companies the working time flexibility they needed in exchange for an hourly wage increase of 1.3 euro for all workers, additional overtime compensation, and improved conditions for shop stewards. During the negotiations, the Metro Company, CMT and BJMF established a good working relationship, and when new collective agreement violations were discovered, BJMF would publicly acknowledge the efforts of CMT in sorting things out.

In sum, the interaction between the three processes of change facilitated the creation of a self-sustaining virtuous circle, which was furthered by the improved conditions granted by the new local agreement that led to a massive increase in the number of shop stewards among the transnational

workers. This contributes to the increasing regulation of CMCR by continuously re-establishing the union's relations with workers and companies while helping secure the everyday enforcement of collective agreements. Meanwhile, foreign companies have become more concerned about the risks of violating collective agreements and engaged in a continuous dialogue with BJMF or their shop stewards. Consequently, the overall construction process runs much smoother now, and both unions and companies seem content with the new situation.

Discussion and conclusion

Enactment of existing inclusive institutions has been very challenging on large-scale, transnationalised European construction projects, with employment relations often trapped in a vicious circle. Nevertheless, Danish construction unions have managed to move the employment relations on the CMCR construction project into a virtuous circle of enforcement, organisation, and cooperation, where the formal inclusive Danish institutions are enacted. The unions successfully organised transnational workers, with union membership density eventually reaching above 30 per cent among those workers. This should be compared to the 6-7 per cent membership rate generally found among transnational construction workers in Copenhagen (Arnholtz and Andersen, 2016) and indicates the success of BJMF's strategies regarding the CMCR.

Drawing on the theoretical framework of Doellgast et al. (2018), the study illustrates how the inclusiveness of existing formal institutions (mainly collective agreements), employers' strategies, and a common objective among workers and unions were important for the shift in employment relations. Additionally, it highlights that owner involvement can be important for the enactment of institutions. In other words, organising a workplace takes more than organising workers, and the success of union strategies are dependent on other factors. Focusing on what unions can do, this study shows that unions' strategic use of power and resources influences the alignment of these factors. While unions' institutional embeddedness is highly important for this process, other power resources are also paramount because

they allow unions to use the institutional power of the collective agreements in a strategic manner and to organise the transnational workers. As such, the case study shows how the Danish unions also utilised symbolic and associational power to mobilise political pressure and structural and associational power to make the realistic threat of a large-scale blockade of the project at a vulnerable time in the construction to enact the formal institutions.

Still, faced with radically new situations, unions must learn how to use their resources in innovative ways (Lévesque and Murray, 2010). Danish unions changed their strategies in three regards: developing new and more inclusive organising strategies to strengthen the sense of common objectives, politicising the public owner's responsibility for employment relations issues, and opting for a more selective enforcement of collective agreement violations. First, the union applied substantial associational resources to develop more inclusive organising strategies by emphasising the transnational workers' needs rather than the union's wish for enforcing the collective agreement. This helped to build a certain trust between the transnational workers and the union organisers. Sharing the penance pay in the Cipa-case with the transnational workers, who joined the union only after the case, helped further the trust in the unions as being on the transnational workers' side. However, taking this inclusive approach required debates about the purpose of organising within the union (Simms and Holgate, 2010). Second, unable to solve problems through informal dialogue and institutional channels, the union had to reinvent its use of symbolic power to politicise the public owner's responsibility for the employment relation—an issue only lightly touched upon in previous studies. Third, the union opted for selective enforcement rather than their traditional approach of enforcing all violations. By mobilising the transnational workers for the Labour Court cases, the strategic enforcement combined with the inclusive organising effort moved the Danish unions further away from their previous more exclusive enforcement strategy in which the transnational workers were often not included (Eldring et al., 2012).

While these strategic changes improved the inclusion of the transnational workers, it is less clear a whether a common purpose has emerged given the limitations of our data. There is a contradiction

between BJMF's attempt to become an organising union and the fact that inclusiveness was promoted by an unusually high level of service for transnational workers. Additionally, Mathiesen (2016) draw on interviews with CMCR workers to argue that occasionally they feel insufficiently involved in local bargaining, while our union interviewees report that some CMCR workers are disgruntled because BJMF does not take enough care of local problems. Hence, both unions and workers seem to want more worker-led engagement, but both also seem to acknowledge that union-led action is most effective. Future studies on transnational organisation should include migrant workers in the data collection to strengthen our knowledge on their perspective on these issues, but the sparse data here suggests that organising transnational workers must involve debates about the political purpose of organising within unions and with the transnational workers (Simms and Holgate, 2010).

Furthermore, the emphasis on unions' strategic action and learning does not imply that union action alone explains the transformation. The pre-existence of inclusive institutions and the enduring power resources of the Danish construction union were preconditions for the success and indicating that less powerful unions in more liberal market economies will face very different challenges. Furthermore, the relatively long duration of the project provided unions time to develop their strategies and build a trustful relationship with the transnational workers, something that is more challenging in shorter projects. Still, the CMCR case shares many characteristics with the previously studied large, transnational construction projects in regulated economies where unions were less successful (Berntsen and Lillie, 2016; Wagner and Lillie, 2014; Lillie and Sippola, 2011). Therefore, the Danish unions' experience of achieving a virtuous circle of enactment by combining inclusive organising strategies, the politicisation of public owner engagement, and the strategic application of power resources in relation to enforcement may be a model that can inspire unions in other regulated economies with formally inclusive institutions.

Acknowledgements

The authors would like to all interviewees for taking the time. They would also like to thank participants of both the June 2017 SASE conferences session on 'Precarious Work and the Reconstruction of Solidarity' and the October 2017 FAOS paper seminar for their comments on a previous draft of this article. Finally, thanks to editor Ian Roper and three anonymous referees for very helpful and constructive comments.

References

- Andersen SK, Dølvik JE and Ibsen CL (2014) Nordic labour market models in open markets. Brussels: European Trade Union Institute.
- Arnholtz J and Andersen SK (2016) *Udenlandske virksomheder og udstationerede arbejdstagere i bygge- og anlægsbranchen*, København: FAOS, Sociologisk Institut, Københavns Universitet.
- Arnholtz J, Ibsen CL and Ibsen F (2014) Importing low-density ideas to high-density revitalisation: The 'organising model' in Denmark. *Economic and Industrial Democracy* 37 (2): 297-317.
- Baccaro L and Howell C (2017) *Trajectories of Neoliberal Transformation: European industrial Relations Since the 1970s*, Cambridge: Cambridge University Press.
- Berntsen L (2016) Reworking labour practices: on the agency of unorganized mobile migrant construction workers. *Work, Employment and Society* 30 (3): 472-488.
- Berntsen L and Lillie N (2016) Hyper-mobile migrant workers and Dutch trade union representation strategies at the Eemshaven construction sites. *Economic and Industrial Democracy* 37 (1): 171-187.
- Bosch G and Weinkopf C (2013) Transnational labour markets and national wage setting systems in the EU. *Industrial Relations Journal* 44 (1): 2-19.
- Caro E, Berntsen L, Lillie N and Wagner I (2015) Posted Migration and Segregation in the European Construction Sector. *Journal of Ethnic and Migration Studies* 41 (10): 1600-1620.
- Chun JJ (2009) *Organizing at the Margins, The Symbolic Politics of Labor in South Korea and the United States*.

- Doellgast V, Lillie N and Pulignano V (2018) *Reconstructing solidarity: Labour unions, precarious work, and the politics of institutional change in Europe*. Oxford: Oxford University Press.
- Eldring L, Fitzgerald I and Arnholtz J (2012) Post-accession migration in construction and trade union responses in Denmark, Norway and the UK. *European Journal of Industrial Relations* 18 (1): 21-36.
- Greer I and Hauptmeier M (2012) Identity work: Sustaining transnational collective action at General Motors Europe. *Industrial Relations: A Journal of Economy and Society* 51(2): 275–299.
- Heery E (2009) Trade unions and contingent labour: scale and method. *Cambridge Journal of Regions, Economy and Society* 2 (3): 429-442.
- Heery E and Abbott B (2000) Trade unions and the insecure workforce. In: Heery E and Salmon J (eds) *The insecure workforce*. London New York: Routledge, 155-180.
- Hyman R (1999) Imagined Solidarities: Can Trade Unions Resist Globalization. In: Leisink P (ed.) *Globalization and Labour Relations*. Cheltenham: Edward Elgar.
- Jaehrling K and Méhaut P (2013) ‘Varieties of institutional avoidance’: employers' strategies in low-waged service sector occupations in France and Germany. *Socio-Economic Review* 11 (4): 687-710.
- Jaehrling K, Johnson M, Larsen TP, Refslund, B & Grimshaw D (2018) Tackling Precarious Work in Public Supply Chains: A Comparison of Local Government Procurement Policies in Denmark, Germany and the UK. *Work, Employment and Society* 32(3): 546–563.
- Kall K, Lillie N, Sippola M and Mankki, L (forthcoming) Overcoming Barriers to Transnational Organizing Through Identity Work: Finnish–Estonian Trade Union Cooperation. *Work, Employment and Society*.
- Lévesque C and Murray G (2010) Understanding union power: resources and capabilities for renewing union capacity. *Transfer: European Review of Labour and Research* 16 (3): 333-350.
- Lillie N (2016) The Right Not to Have Rights: Posted Worker Acquiescence and the European Union Labor Rights Framework. *Theoretical Inquiries in Law* 17 (1): 39-62.
- Lillie N and Greer I (2007) Industrial Relations, Migration, and Neoliberal Politics: The Case of the European Construction Sector. *Politics & Society* 35 (4): 551-581.

- Lillie N and Sippola M (2011) National unions and transnational workers: the case of Olkiluoto 3, Finland. *Work, Employment and Society* 25 (2): 292-308.
- Mathiassen J (2016) Gennembrudet [the breakthrough]. Report for the Danish construction unions on the organisation of the Copenhagen metro project. Copenhagen: United Federation of Danish Workers.
- Meardi G (2012) Union Immobility? Trade Unions and the Freedoms of Movement in the Enlarged EU. *British Journal of Industrial Relations* 50 (1): 99-120.
- Refslund, B & Sippola, M. (forthcoming) *Migrant workers trapped between individualism and collectivism – the formation of union-based, workplace collectivism*. Working paper, Aalborg University.
- Simms M and Holgate J (2010) Organising for what? Where is the debate on the politics of organising? *Work, Employment and Society* 24(1): 157–168.
- Silver B (2003) *Force of Labor - Workers' Movements and Globalization Since 1870*, Cambridge: Cambridge University Press.
- Wagner I and Lillie N (2014) European Integration and the Disembedding of Labour Market Regulation: Transnational Labour Relations at the European Central Bank Construction Site. *JCMS: Journal of Common Market Studies* 52 (2): 403-419.
- Waldinger R and Lichter MI (2003) *How the Other Half Works: Immigration and the Social Organization of Labor*. Berkeley: University of California Press.
- Webster E (2015) Labour after Globalisation: Old and New Sources of Power. *Institute of Social and Economic Research (ISER), Rhodes University. ISER Working Paper 2015 (1)*.
- Wright EO (2000) Working-Class Power, Capitalist-Class Interests, and Class Compromise. *American Journal of Sociology* 105 (4): 957-1002.

Jens Arnholtz is an associate professor at the Department of Sociology, University of Copenhagen. He holds a Ph.D. in sociology from University of Copenhagen. His main research areas include employment relations, labour migration and EU regulation of labour markets. His current research project concerns posted workers in the European Union.

His research has been published in *British Journal of Industrial Relations*, *European Journal of Industrial Relations*, *Economic and Industrial Democracy* and *Journal of European Social Policy*.

Bjarke Refslund is an associate professor at the Department of Sociology and Social Work, Aalborg University. He has a Ph.D. degree in Political Science from Aalborg University. His main research areas include industrial relations, labour migration and unions and labour market sociology and recent research projects include topics such as organising migrant workers, Europeanisation and social policy and occupational health and safety. His research has featured in journals such as *European Journal of Industrial Relations*, *Economic and Industrial Democracy*, *Competition and Change* and *Work, Employment and Society*.